

222

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4832-2015 (O&M)
Date of decision : 01.02.2018

Smt. Vandana and others

... Appellant(s)

Versus

Ram Avtar and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vikram Singh Rao, Advocate
for the appellant(s).

Mr. Rajbir Singh, Advocate
for respondent No.3/Insurance Company.

AMIT RAWAL, J. (ORAL)

CM-14902-CII-2015

For the reasons stated in the application, which is supported by an affidavit, the application is allowed and the delay of 138 days in filing the appeal is condoned.

FAO-4832-2015

The appeal has been preferred by the claimants being widow, minor daughter and son and parents of Jitender Singh, aged 28 years, who unfortunately died in a motor accident occurred on 09.02.2012, for enhancement of compensation against the Award passed by the Tribunal, whereby a compensation of ₹30,32,750/- along with interest @ 7.5% per annum, has been awarded.

Learned counsel appearing on behalf of the appellants-

claimants submits that the Tribunal has awarded the compensation to the tune of ₹30,32,750/-, which is on lower side as no increase was made in the salary towards future prospects and an amount of ₹1,00,000/- for loss of consortium, ₹20,000/- for love and affection and ₹25,000/- for funeral expenses, is also too meagre, thus, there is scope for enhancement.

On the other hand, learned counsel appearing on behalf of the Insurance Company submits that the Tribunal has taken care of all the heads sufficiently and there is no scope for further enhancement, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a scope of enhancement as the compensation to the tune of ₹30,32,750/- is on lower side as no increase towards future prospects has been made. Accordingly, I take the income of the deceased as ₹2,26,489/- per annum (i.e. ₹ 18,874/- per month) as has been taken by the Tribunal and provided 50% increase towards future prospects and apply a multiplier of '17', much less, deduction of 1/4th to assess the loss of dependency as ₹43,31,583/-.

As regards the grant of compensation towards conventional heads, the Tribunal has already granted an amount of ₹1,00,000/- for loss of consortium, ₹20,000/- for love and affection and ₹25,000/- for funeral expenses, which is on higher side. Accordingly, I hereby reduce the same from ₹1,45,000/- to ₹70,000/- towards conventional heads i.e. loss of estate loss of consortium and funeral expenses as per the latest judgment dated 31.10.2017 rendered by Hon'ble the Supreme Court in *SLP (Civil) No.25590 of 2014* titled as *“National Insurance Company Ltd. V/s Pranay*

Sethi and others” and by exercising the power under Order 41 Rule 33 CPC as per the *ratio decidendi* culled out by the Hon'ble Supreme Court in **“U.P.S.R.T.C. V/s Km. Mamta and others” (2016) 4 SCC 172.**

In all the compensation payable shall be ₹44,01,583/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 6% per annum from the date of filing of the appeal till its realization. However, the appellants-claimants shall not be entitled to interest for a period of 138 days i.e. delay in filing the appeal. The enhanced amount shall be distributed amongst the appellants-claimants in the ratio of 2:2:2:1:1. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent and the appeal stands allowed.

01.02.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No